

REMARKS

Entry of the foregoing, reexamination and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

As correctly noted in the Office Action Summary, claims 1-23 were pending. Upon entry of the present response, claims 1-23 remain pending and await further consideration on the merits.

INFORMATION DISCLOSURE STATEMENT FILED SEPTEMBER 17, 2001

Applicant notes that attached to the Official Action is a copy of the PTO-1449 form submitted with the above-mentioned Information Disclosure Statement filed September 17, 2001. Under the foreign patent documents section of the above-mentioned form, applicant notes that the Finnish Patent Publication No. 93583, as well as the German Patent Publication Nos. 4114572 and 4418180 have been crossed-out. Thus, applicant assumes that consideration of these references has been denied. The Official Action contains no explanation with regard to the basis for denial of the consideration of these references. Although the above-mentioned references are foreign language documents, applicant also submitted a patentability report issued by the Finnish Patent Office which cites each of the above-mentioned foreign language documents, along with an indication of their relevance (i.e. - all documents considered as corresponding to "Y" documents, pertaining to obviousness, or inventive step requirements). Thus, pursuant to MPEP §609, applicant

respectfully submits that the refusal to consider these foreign language documents is inappropriate given the indication of relevance contained in the Finnish patentability report submitted with the Information Disclosure Statement filed September 17, 2001.

It is further noted that although European Patent Publication 0836092 also listed on the above-mentioned PTO 1449 form was not crossed-out, the Examiner did not initial the row upon which this reference is listed, indicating consideration thereof.

In light of the above, applicant submits herewith a clean, duplicate copy of the PTO 1449 form filed originally with the Information Disclosure Statement of September 17, 2001, respectfully request the Examiner to initial each of references cited therein. Should the Examiner decline to consider any of the prior art references contained therein, applicant respectfully requests that an explanation of the grounds for denying their consideration be given in the next Official Action.

OBJECTIONS TO THE SPECIFICATION

The specification stands objected to on the grounds set forth in paragraph 1 of the Official Action. Namely, it is alleged that the incorporation of essential material into the specification, by reference to a foreign application or patent, is improper. This objection is respectfully traversed.

First, applicant respectfully submits that no essential material has been incorporated by reference into the written description of the present application. To the contrary, all of

the materials which are necessary to comply with the requirements of 35 U.S.C. §101 and §112 is explicitly contained in the written description of the present application.

Second, the statement contained after the title on page 1 of the present specification, concerning the priority claim to a corresponding foreign patent application, which is also incorporated by reference, is entirely appropriate, and is common practice. See, MPEP §201.06(c).

Third, the present specification has been amended such that all prior references to "Finnish patent application 980221" has been replaced in favor of reference to U.S. Patent No. 6,067,151. The '151 patent is a corresponding U.S. family member of the previously referenced Finnish patent application, and whose disclosure corresponds with that of the previously referenced Finnish patent application.

In light of the above, reconsideration and withdrawal of the objection to the specification contained in paragraph 1 of the Official Action is respectfully requested.

The objection contained in paragraph 2 of the Official Action is based upon the appearance of the trademark "Teflon", which appears in the specification. Applicants have reviewed the specification, and where appropriate, have inserted a generic term wherever the term "Teflon" appears. Thus, reconsideration and withdrawal of the objection is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1, 2, 5 and 6 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,067,151 to Salo (hereafter "*Salo*") on the grounds set forth in paragraph 4 of the Official Action. This rejection is respectfully traversed.

The present invention is directed to an improved refractometer comprising an optical module arranged inside a housing structure, wherein the housing structure is formed of a material that is chemically durable, mechanically rigid, and has good thermoconductivity, such that when contacted in use with aggressive fluids, reliability of the refractometer is improved compared with previous refractometer constructions.

Salo is also directed to our refractometer having an optical module arranged within a housing structure. *Salo* is discussed at various locations throughout the present specification (see, e.g. - paragraphs [0006]-[0007]). As explained in the specification, the refractometer construction described in *Salo* is susceptible to attack when contacted with strong acids or basis, or fluids containing impurities such as metal ions.

A refractometer constructed according to the principles of the present invention is set forth in claim 1. Claim 1 recites:

1. *A refractometer comprising:
an optical module arranged floatingly inside a housing
structure, the optical module comprising
an optical window to be positioned in a process fluid,
beam forming and directing means for forming an
illuminating beam and for directing the illuminating beam into
the process fluid through the optical window and for directing
a reflected part of the illuminating beam reflected from the
process fluid away from the process fluid, and*

detecting means for detecting an image generated by said beam forming and directing means; and
a housing structure part arranged to support the optical module inside the housing structure via sealing means for sealing the optical module against the housing structure part, the sealing means being arranged between the optical window and the housing structure part,
wherein the housing structure part is configured to contact the process fluid and is configured to support the optical window via the sealing means, the housing structure part being formed of a material that is resistant to corrosion by aggressive fluids.

Salo fails to disclose, or suggest, the refractometer as defined by claim 1.

As readily apparent from the above, claim 1 requires a housing structure arranged to support the optical module, wherein the housing structure is configured to contact the process fluid and is configured to support the optical window via the ceiling means. The housing structure being formed of a material that is resistant to corrosion by aggressive fluids.

By contrast, as discussed above, the housing structure of *Salo* is not viewed as satisfying the material requirements of the housing structure defined by claim 1.

Claims 2, 5 and 6 depend from claim 1. Thus, these claims are also distinguishable over *Salo* for at least the same reasons noted above. Reconsideration and withdrawal of the rejection is respectfully requested.

OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

Claims 1, 2, 5 and 6 stand rejected under the judicially created doctrine of obviousness-type double patenting over claim 1 of *Salo* on the grounds set forth in paragraph 5 of the Official Action. This rejection is respectfully traversed.

As discussed above, claim 1 of the present application recites a housing member which not only supports the optical module, but is also formed to contact the process fluid and configured to resist corrosion by aggressive fluids. Applicants do not see corresponding structure contained in claim 1 of *Salo*. Thus, for reason similar to those contained in the discussion of the rejection under 35 U.S.C. §103(a) above, reconsideration and withdrawal of the double patenting rejection is respectfully requested.

ALLOWABLE SUBJECT MATTER

Applicants note with appreciation the indication that claims 7-23 are allowable, as stated in paragraph 6 of the Official Action. Applicants also note with appreciation the indication that claims 3 and 4 contain allowable subject matter, as explained in paragraph 7 of the Official Action.

CONCLUSION

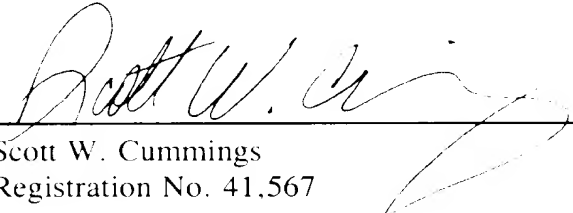
From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is

requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: _____


Scott W. Cummings
Registration No. 41,567

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

Date: August 1, 2003